

EXHIBIT C

(to Plaintiff's Motion for Partial Summary Judgment)

Bates Nos. Kennedy_VA_843

Kennedy_RFP_17-20, 24-25, 40-41, 44, 51, 53, 60-62

Kennedy_5007_19, 39, 42, 60-61

FEBRUARY 21, 2008

**VA HANDBOOK 5007/32
PART IX
APPENDIX B**

**APPENDIX B. EXCEPTIONS TO THE MAXIMUM OF THE ANNUAL PAY RANGE
[ON A SPECIALTY OR FACILITY-SPECIFIC BASIS]**

1. GENERAL

a. In accordance with VA Handbook 5007, Part IX, paragraph 14, the annual pay for a physician or dentist may not exceed the maximum amount in the nationwide pay range prescribed by the Secretary for a specialty or assignment.

b. It is expected that the maximum amount in the nationwide pay range will meet most pay and staffing needs. However, [] an exception to the maximum [may be granted] on an individual, specialty or assignment, and/or facility-specific basis if such action is necessary to recruit or retain well qualified physicians and dentists.

c. [This part sets forth procedures regarding specialty or assignment and/or facility-specific exceptions. See paragraph 14d of part IX for instructions for requesting exceptions to the pay range on an individual basis].

d. [Exceptions to the maximum amount in the nationwide pay range will only be considered if failure to approve the exception would significantly impair a facility's ability to recruit and retain well qualified physicians and dentists].

[e.] Exceptions to the maximum amount of a nationwide pay range are not required for physicians and dentists who will exceed the pay range due to a longevity step increase or a statutory general increase in pay.

2. FACILITY DIRECTOR OR REQUESTING OFFICIAL RESPONSIBILITIES

a. Identifying the need for and requesting exceptions;

b. Reducing or canceling previously approved exceptions when they determine the exceptions are no longer warranted, and notifying VHA's Management Support Office through the appropriate VISN Director (10N__/10A2) of the reasons for reduction or cancellation; and

c. Coordinating requests for specialty/assignment and/or facility-specific exceptions and decisions to reduce or cancel previously approved exceptions with VA facilities located in the same labor market.

3. CRITERIA FOR APPROVAL. Each facility submitting a request for an exception to the maximum in the pay range [on a] specialty or assignment, and/or facility-specific basis must demonstrate that a higher maximum is necessary to maintain adequate staffing. Factors to consider include:

a. **[Higher Maximum Rates]**

(1) [There is evidence or anecdotal information that the maximum rates in the community are higher than VA's maximum rate for the specialty or assignment. However, higher rates in the community may not be the sole basis for making a request for an exception to the maximum of the market pay range; and]

WM. JENNINGS BRYAN DORN
DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER
COLUMBIA, SOUTH CAROLINA

HUMAN RESOURCES MANAGEMENT

Medical Center Memorandum No. 544-05-11

March 20, 2014

COMPENSATION PANELS FOR PHYSICIANS AND DENTISTS

1. **PURPOSE**. This Medical Center Memorandum is provided to define the procedures for establishing and maintaining Compensation Panels for physicians and dentists.
2. **SCOPE**: This policy applies to this medical center-and all community-based outpatient clinics.
3. **POLICY**: Compensation Panels will make pay recommendations for new hire physicians and dentists, biennial pay reviews, changes in duty basis, and at any other time deemed necessary by the appropriate management official.
4. **RESPONSIBILITIES**:
 - a. The Facility Director or designee:
 - (1) Approves members to the local physician and dentist Compensation Panels.
 - (2) Serves as the approving official for Tiers 1, 2, or 3 assignments with the exception of the Chief of Staff assignment. The approving official's decision is final.
 - b. Supervisors and/or management officials may make market pay and tier recommendations for physicians and dentists being reviewed by the compensation panel.
 - c. Human Resources Management Officer or designee will serve as a technical representative to the compensation panel.
 - d. Panel members will document recommendations on actions presented to the panel using VA Form 10-0432A. Panel members and other employees having access to information presented or discussed during a compensation panel are required to retain that information in strict confidence.

5. PANEL MEMBERSHIP/COMPOSITION: Panels will be composed of at least three physician or dentist members, as applicable, one of which is designated as the chairperson.

a. Panels for Pay Tables 1 – 4 and 7, Tier 1 will be comprised of at least one physician who holds a management position and, to the extent practicable, two physicians or dentists who are practicing clinicians who do not hold management positions. Physician panels will be comprised solely of physicians, dentist panels will be comprised of at least two dentists.

b. Panels for Pay Tables 1 – 4 and 7, Tiers 2 and 3 will be comprised of at least three physicians or dentists in tiers 2, 3 or 4.

c. A sufficient number of physicians and dentists should be appointed to panels to increase the likelihood that three members will be available when necessary to convene a panel.

6. PANEL FUNCTIONS: Compensation Panels are responsible for the following:

a. Making pay recommendations for appointment actions. Recommendations will include evaluating the annual pay (base pay and market pay) to include pay table and tier assignment.

b. Conducting pay reviews for each physician and dentist under its jurisdiction at least once every 24 months.

c. Conducting pay reviews when a change in duty basis (i.e. from/to full-time, part-time or intermittent), change in tier, or a significant change in duties or assignments, as determined by the appropriate management official occurs.

d. Executing the VA form 10-0432A, Compensation Panel Action and forwarding recommendations through the appropriate chain of command to the Facility Director for approval.

7. PROCEDURES:

a. Compensation panels will be held twice a month and as needed.

b. The Human Resources Management Officer or designee will:

(1) Provide information regarding salary data, salary rates and ranges for tables and tiers.

(2) Serve as a technical advisor to the compensation panel to ensure recommendations adhere to pay administration guidelines.

c. Compensation Panels will:

(1) Use sound professional and administrative judgment while performing the functions of the panel.

(2) Maintain strictest confidentiality of information presented or discussed during panel meetings.

(3) Document recommendations on VA Form 10-0432A addressing each of the factors listed in Part B. In addition, biennial reviews will address the criteria addressed in Human Resources Management Letter (HRML) 05-11-06.

d. Facility Director or designee will determine the annual pay to be paid a physician or dentist after consideration of the recommendation of the compensation panel.

8. PAY LIMITATIONS AND EXCEPTIONS:

a. The annual pay for a physician or dentist may exceed the maximum amount of the table/tier only as a result of a longevity step increase to base pay or as a result of a statutory general increase in base pay. Exceptions are permitted in unusual circumstances and may be approved at the following levels:

(1) The Facility Director is the approving official for annual pay up to \$275,000 and may approve a tier exception for employees in pay tables 1-4 and 7 which do not exceed the maximum of the next higher tier within the table (NTE \$275,000).

(2) The Network Director is the approving official for annual pay greater than \$275,000, not to exceed \$325,000, only when a tier exception is not required.

(3) The Under Secretary of Health is the approving official for all tier exceptions (except those that can be approved by the Facility Director) and for annual pay in excess of \$325,000.

b. In no instance may annual pay (base pay; market pay; performance pay; recruitment, relocation, or retention incentive, and any other payment under Title 38) of a physician or dentist exceed the amount of annual pay received by the President of the United States.

9. REFERENCES:

a. VA Handbook 5007, Part IX

b. HRML 05-11-06

10. RESCISSION: None

11. FOLLOW-UP RESPONSIBILITY: Human Resources Management. This memorandum is due for review annually on the anniversary date and for reissue in March 2017.

David L. Omura, DPT, MHA, MS
Acting Medical Center Director

**Department of
Veterans Affairs**

Memorandum

Date: _____
From: Chief of Staff (544/11)
Subj: Physician and Dentists Compensation Panels
To: William J. Groh, MD (544/111)

1. Congratulations on your selection to serve as a member of the Physician and Dentist Compensation Panel, Pay Tables 1-4 and 7/Tiers 2, 3, and 4 and Table 7/Tier 2.
2. In this role you will make annual pay range and tier recommendations for physicians and dentists under the jurisdiction of the Facility Director.
3. The Compensation Panel is responsible for evaluating the annual pay (base pay and market pay) to include pay table and tier assignment of each physician and dentist under its jurisdiction at least once every 24 months (biennial review) and at such other times deemed necessary by the appropriate management official. A change in duty basis (i.e., to/from full-time, part-time, or intermittent), change in tier, or a significant change in duties or assignments as determined by an appropriate management official, will also require a re-evaluation of the market pay and tier by the Compensation Panel.
4. Compensation Panel members and other employees having access to information presented or discussed during a Compensation Panel are required to retain that information in strict confidence. Individuals are subject to disciplinary action for violating the confidentiality of the proceedings and may also be barred from continued participation in the Compensation Panel process.
5. Thank you for your willingness to serve as a member of the Physician and Dentist Compensation Panel. We trust that this assignment will be both challenging and rewarding.



Bernard L. DeKoning, MD, FAAFP

**Department of
Veterans Affairs**

Memorandum

Date: November 4, 2014
From: Chief of Staff (544/11)
Subj: Physician and Dentists Compensation Panels
To: Emmet Maas, MD (544/181)

1. Congratulations on your selection to serve as a member of the Physician and Dentist Compensation Panel, Pay Tables 1-4 and 7/Tier 1.
2. In this role you will make annual pay range and tier recommendations for physicians and dentists under the jurisdiction of the Facility Director.
3. The Compensation Panel is responsible for making appropriate table, tier, and pay recommendations for appointment actions, biennial reviews, changes in duty basis and at other times deemed necessary by the appropriate management official.
4. Compensation Panel members and other employees having access to information presented or discussed during a Compensation Panel are required to retain that information in strict confidence. Individuals are subject to disciplinary action for violating the confidentiality of the proceedings and may also be barred from continued participation in the Compensation Panel process.
5. Thank you for your willingness to serve as a member of the Physician and Dentist Compensation Panel. We trust that this assignment will be both challenging and rewarding.



Bernard L. DeKoning, MD, FAAFP

cc: Primary Care (544/181)

**Department of
Veterans Affairs**

Memorandum

Date December 4, 2013
From Acting Chief of Staff (544/11)
Subj Physician and Dentists Compensation Panels
To George Niggel, MD (544/114)

1. Congratulations on your selection to serve as a member of the Physician and Dentist Compensation Panel, Pay Tables 1-4 and 7/Tier 1.
2. In this role you will make annual pay range and tier recommendations for physicians and dentists under the jurisdiction of the Facility Director.
3. The Compensation Panel is responsible for making appropriate table, tier, and pay recommendations for appointment actions, biennial reviews, changes in duty basis and at other times deemed necessary by the appropriate management official.
4. Compensation Panel members and other employees having access to information presented or discussed during a Compensation Panel are required to retain that information in strict confidence. Individuals are subject to disciplinary action for violating the confidentiality of the proceedings and may also be barred from continued participation in the Compensation Panel process.
5. Thank you for your willingness to serve as a member of the Physician and Dentist Compensation Panel. We trust that this assignment will be both challenging and rewarding.



Srinivas Ginjupalli, MD, CMD

cc: Radiology (544/114)
Human Resources (544/05)

**Department of
Veterans Affairs**

Memorandum

Date December 4, 2013

From Acting Chief of Staff (544/11)

Subj: Physician and Dentists Compensation Panels

To: Brad Pender, MD (544/185)

1. Congratulations on your selection to serve as a member of the Physician and Dentist Compensation Panel, Pay Tables 1-4 and 7/Tier 1.
2. In this role you will make annual pay range and tier recommendations for physicians and dentists under the jurisdiction of the Facility Director.
3. The Compensation Panel is responsible for making appropriate table, tier, and pay recommendations for appointment actions, biennial reviews, changes in duty basis and at other times deemed necessary by the appropriate management official.
4. Compensation Panel members and other employees having access to information presented or discussed during a Compensation Panel are required to retain that information in strict confidence. Individuals are subject to disciplinary action for violating the confidentiality of the proceedings and may also be barred from continued participation in the Compensation Panel process.
5. Thank you for your willingness to serve as a member of the Physician and Dentist Compensation Panel. We trust that this assignment will be both challenging and rewarding.



Srinivas Ginjupalli, MD, CMD

cc: Anesthesia (544/185)
Human Resources (544/05)

**Department of
Veterans Affairs**

Memorandum

Date. December 4, 2013

From Acting Chief of Staff (544/11)

Subj. Physician and Dentists Compensation Panels

To Ziad Al-Assaad, MD (544/113)

1. Congratulations on your selection to serve as a member of the Physician and Dentist Compensation Panels, Pay Tables 1-4 and 7/Tiers 1, 2, and 3 and Table 7/Tiers 1 and 2.
2. In this role you will make annual pay range and tier recommendations for physicians and dentists under the jurisdiction of the Facility Director.
3. The Compensation Panel is responsible for making appropriate table, tier, and pay recommendations for appointment actions, biennial reviews, changes in duty basis and at other times deemed necessary by the appropriate management official.
4. Compensation Panel members and other employees having access to information presented or discussed during a Compensation Panel are required to retain that information in strict confidence. Individuals are subject to disciplinary action for violating the confidentiality of the proceedings and may also be barred from continued participation in the Compensation Panel process.
5. Thank you for your willingness to serve as a member of the Physician and Dentist Compensation Panel. We trust that this assignment will be both challenging and rewarding.


Srinivas Ginjupalli, MD, CMD

cc: Human Resources (544/05)

**Department of
Veterans Affairs**

Memorandum

Date December 4, 2013
From: Acting Chief of Staff (544/11)
Subj. Physician and Dentists Compensation Panels
To: Daniel Jorgenson, MD (544/113)

1. Congratulations on your selection to serve as a member of the Physician and Dentist Compensation Panels, Pay Tables 1-4 and 7/Tiers 1, 2, and 3 and Table 7/Tiers 1 and 2.
2. In this role you will make annual pay range and tier recommendations for physicians and dentists under the jurisdiction of the Facility Director.
3. The Compensation Panel is responsible for making appropriate table, tier, and pay recommendations for appointment actions, biennial reviews, changes in duty basis and at other times deemed necessary by the appropriate management official.
4. Compensation Panel members and other employees having access to information presented or discussed during a Compensation Panel are required to retain that information in strict confidence. Individuals are subject to disciplinary action for violating the confidentiality of the proceedings and may also be barred from continued participation in the Compensation Panel process.
5. Thank you for your willingness to serve as a member of the Physician and Dentist Compensation Panel. We trust that this assignment will be both challenging and rewarding.



Srinivas Ginjupalli, MD, CMD

cc: Human Resources (544/05)

**Department of
Veterans Affairs**

Memorandum

Date December 4, 2013
From Acting Chief of Staff (544/11)
Subj Physician and Dentists Compensation Panels
To Robert Miller, DO (544/116)

1. Congratulations on your selection to serve as a member of the Physician and Dentist Compensation Panels, Pay Tables 1-4 and 7/Tiers 1, 2, and 3 and Table 7/Tiers 1 and 2.
2. In this role you will make annual pay range and tier recommendations for physicians and dentists under the jurisdiction of the Facility Director.
3. The Compensation Panel is responsible for making appropriate table, tier, and pay recommendations for appointment actions, biennial reviews, changes in duty basis and at other times deemed necessary by the appropriate management official.
4. Compensation Panel members and other employees having access to information presented or discussed during a Compensation Panel are required to retain that information in strict confidence. Individuals are subject to disciplinary action for violating the confidentiality of the proceedings and may also be barred from continued participation in the Compensation Panel process.
5. Thank you for your willingness to serve as a member of the Physician and Dentist Compensation Panel. We trust that this assignment will be both challenging and rewarding.



Srinivas Ginjupalli, MD, CMD

cc: Human Resources (544/05)

**Department of
Veterans Affairs**

Memorandum

Date: **OCT 28 2014**

From: Interim Under Secretary for Health (10)

Subj: Delegation for Pay Limitations and Tier Exceptions – Physician and Dentist Pay

To: Chief Officers, Network Directors, Network Chief Medical Officers, Medical Center Directors, Chiefs of Staff, and Human Resources Managers

1. The purpose of this memorandum is to provide delegation of authority for tier exceptions and certain pay limitations. New pay ranges for Pay Tables 1 – 5 have been published in the Federal Register and will be effective November 30, 2014. In addition to changes in the pay ranges, the FY 2014 Steering Committee for Physician and Dentist Pay recommended a modification to the authority for approving tier exceptions and certain pay limitations. The Committee recommendations were approved.

2. Previously, tier exceptions, up to a maximum of \$275,000, required approval of the Medical Center Director or approval of the Under Secretary for Health. The new approved delegation allows the Medical Center Director to approve a tier exception for an annual rate of pay up to the maximum rate of the next highest tier within the applicable Pay Table, not to exceed \$300,000. Additionally, the Network Director may approve a tier exception for an annual rate of pay up to the maximum rate of the next highest tier within the applicable Pay Table, not to exceed \$350,000.

3. Formerly, all requests for an exception to the \$275,000 pay limitation required Network Director approval. Under Secretary for Health approval was required for those requests in excess of \$325,000. The revised delegation allows for the Medical Center Director to approve an annual rate of pay within a tier up to a maximum of \$300,000 and the Network Director to approve an annual rate of pay within a tier up to a maximum of \$350,000.

4. Specifically, the new authority provides for the following:

A. Medical Center Directors are authorized to approve a tier exception that:

(1) Meets the requirements of VA Handbook 5007, Part IX, Appendix B, including the appropriate documentation of the required criteria;

(2) Does not exceed the maximum rate of the next highest tier within the applicable Pay Table, excluding Pay Tables 5 - 7 up to \$300,000; and

(3) Must meet the requirement that all annual pay in excess of \$300,000 have the approval of the Network Director.

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Subj: Delegation for Pay Limitations and Exceptions Physician and Dentist Pay

B. Network Directors are authorized to approve a tier exception that:

(1) Meets the requirements of VA Handbook 5007, Part IX, Appendix B, including the appropriate documentation of the required criteria; and

(2) Does not exceed the maximum rate of the next highest tier within the applicable pay table, excluding pay tables 6 and 7, up to \$350,000.

C. In no instance may the annual pay approved exceed \$350,000 without approval from the Under Secretary for Health or Designee.

5. The authorization for Medical Center Directors and Network Directors to approve a tier exception only applies to those decisions that may be made by Medical Center Directors and Network Directors per VA Handbook, Part IX, paragraph 6 . Thus, no tier exception approval may be made for any physician or dentist in Pay Tables 5 – 7 by a Medical Center Director or for any physician or dentist in Pay Tables 6 and 7 by a Network Director.

6. Examples of how this new delegation may be applied, using the new pay ranges, effective November 30, 2014 are as follows:

A. **Pay Table 1:** The Medical Center Director may approve a tier exception, up to the maximum rate of the next highest tier within the Pay Table for any employee in Tier 1 or 2.

B. **Pay Table 2:** The Medical Center Director may approve a tier exception, up to the maximum rate of the next highest tier within the Pay Table for any employee in Tier 1 or 2.

C. **Pay Table 3:** The Network Director may approve a tier exception up to the maximum rate of the next highest tier within the Pay Table for any employee in Tier 1 or 2. The Medical Center Director may **NOT** approve a tier exception for any employee in pay tables 3, 4, or 7 because all of the tiers equal or exceed \$300,000 requiring Network Director approval.

D. **Pay Table 4:** The Network Director may approve a tier exception for an employee in a tier 1 assignment up to the maximum rate of Tier 2. The Network Director may **NOT** approve a tier exception for any employee in tier 2 because the maximum rate for tier 3 exceeds \$350,000 requiring Under Secretary for Health approval.

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Subj: Delegation for Pay Limitations and Exceptions – Physician and Dentist Pay

E. **Pay Table 5:** The Network Director may approve a tier exception, up to the maximum rate of the next highest tier within the Pay Table for any employee in tier 1 or 2. The Medical Center Director may **NOT** approve a tier exception for any employee in Pay Table 5 because the authority to approve the annual rate of pay for a facility Chief of Staff resides with the Network Director.

F. **Pay Table 7:** No tier exceptions may be approved by the Medical Center Director or Network Director in this Pay Table because all of the tiers exceed \$300,000 and \$350,000 respectively. All tier exceptions for Pay Table 7 require approval of the Under Secretary for Health or Designee.

7. This memorandum permits authorization of this new authority pending the publication of revised policy in VA Handbook 5007, Part IX. Questions may be directed to Melody Mikutowski, Director HR Programs and Policies Service at (360) 567-4605 or by email at Melody.Mikutowski@va.gov or to Farine Cohen, HR Consultant, Workforce Management and Consulting at (202) 461-7179 or by email at Farine.Cohen@va.gov



Carolyn M. Clancy, MD